



AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : William Stuart Somers *et al.* Art Unit : 1646
Serial No. : 09/903,876 Examiner : Michael Pak
Filed : July 11, 2001
Title : CRYSTAL STRUCTURE OF ESTROGEN RECEPTOR-BETA COMPLEX AND
USES THEREOF

Mail Stop Appeal Briefs - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Applicants respectfully object to the Notification of Non-Compliant Appeal Brief dated January 24, 2006 (copy enclosed). The notification stated that at least one amendment had been filed subsequent to the final rejection, and the appeal brief filed on November 2, 2005, did not contain a statement of the status of each such amendment. However, no amendments were filed subsequent to the final rejection.

Applicants wish to extend their appreciation to the Examiner for his time and consideration during the telephone interview of January 31, 2006, with Applicants' representative, Allyson Hatton. The Examiner conceded that the Notification of Non-Compliant Appeal Brief was sent in error, and said that the response should explain this error. Applicants have complied with the Examiner's instructions and therefore request that the Notification of Non-Compliant Appeal Brief be withdrawn. It is understood that an amended Appeal Brief is not required, and so one is not included with this response. Applicants also believe that because the notification was sent in error, there will be no negative impact to Applicants with respect to Patent Term Adjustment.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

2/8/06

Signature

[Handwritten Signature]

Typed or Printed Name of Person Signing Certificate

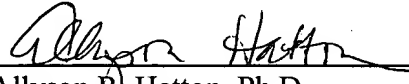
Applicant : William Stuart Somers *et al.*
Serial No. : 09/903,876
Filed : July 11, 2001
Page : 2 of 2

Attorney's Docket No.: 16163-005001 / AM100379

No fee is believed due. However, any necessary charges, or any credits, should be applied to Deposit Account No. 06-1050, referencing Attorney Docket No. 16163-005001.

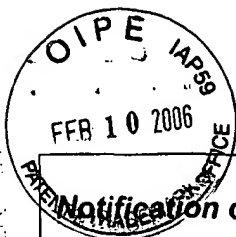
Respectfully submitted,

Date: February 8, 2006


Allyson R. Hatton, Ph.D.
Reg. No. 54,154

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21263002.doc



**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/903,876

Applicant(s)

SOMERS ET AL.

Examiner

Michael Pak

Art Unit

1646

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 04 November 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☒ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

Michael Pak
MICHAEL PAK
PRIMARY EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,876	07/11/2001	William S. Somers	37174/9	9624
26161	7590	01/24/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.